D.B. CIVIL SPECIAL APPEAL (W) NO.136/2005.
(Rajasthan Housing Board & Anr. vs. Smt. Kanta Vyas & Ors.)

Date :13.04.2005.

HON'BLE MR.JUSTICE N.N.MATHUR
HON'BLE MR.JUSTICE MANAK MOHTA

Mr.P.C. Sharma, for the appellants.

By the impugned order the learned Single Judge has dismissed the application under Article 226 of the Constitution of India filed by the appellant-respondents.

The respondents applied for allotment of house with the appellants Rajasthan Housing Board, in the scheme known as Kalpatru Scheme, 1991. The maximum cost of the house was fixed as Rs.2,08,262/-. It appears that there was default in payment of certain installments. However, it is not in dispute that the possession of the house has never been in possession of the respondents. The Board has raised a demand of Rs.8,08,435/-.

The learned Single Judge after hearing the parties, on consideration of the entire material on record found a prima facie case in favour of the respondents. The learned Single Judge has also observed that it would not be proper to permit the Board to alienate the property so as to create rights of third

party. The learned Single Judge also found the balance of convenience in favour of the respondents.

Having heard learned counsel for the parties, we are of the view that no interference is warranted with the impugned interim order passed by the learned Single Judge.

The special appeal stands dismissed.

(MANAK MOHTA),J. **(N.N.MATHUR),J.**

Ashwini/-